



Rep. Monique D. Davis

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LRB096 21050 ASK 39443 a

1 AMENDMENT TO HOUSE BILL 6422

2 AMENDMENT NO. _____. Amend House Bill 6422 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Human Skeletal Remains Protection Act is
5 amended by changing Section 1 as follows:

6 (20 ILCS 3440/1) (from Ch. 127, par. 2661)

7 Sec. 1. Definitions. For the purposes of this Act:

8 (a) "Human skeletal remains" include the bones and
9 decomposed fleshy parts of a deceased human body.

10 (b) "Unregistered graves" are any graves or locations where
11 a human body has been buried or deposited that are (i) ~~is~~
12 over 100 years old~~+~~ and (ii) ~~is~~ not in a cemetery registered
13 with the State Comptroller under the Cemetery Care Act or under
14 the authority of the Illinois Department of Financial and
15 Professional Regulation pursuant to the Cemetery Oversight
16 Act, whichever is applicable.

1 (c) "Grave artifacts" are any item of human manufacture or
2 use that is associated with the human skeletal remains in an
3 unregistered grave.

4 (d) "Grave markers" are any tomb, monument, stone,
5 ornament, mound, or other item of human manufacture that is
6 associated with an unregistered grave.

7 (e) "Person" means any natural individual, firm, trust,
8 estate, partnership, association, joint stock company, joint
9 venture, corporation or a receiver, trustee, guardian or other
10 representatives appointed by order of any court, the Federal
11 and State governments, including State Universities created by
12 statute or any city, town, county or other political
13 subdivision of this State.

14 (f) "Disturb" includes excavating, removing, exposing,
15 defacing, mutilating, destroying, molesting, or desecrating in
16 any way human skeletal remains, unregistered graves, and grave
17 markers.

18 (Source: P.A. 96-863, eff. 3-1-10.)

19 Section 10. The Cemetery Oversight Act is amended by
20 changing Sections 5-15, 5-20, 5-25, 10-5, 10-10, 10-15, 10-20,
21 10-21, 10-25, 15-5, 15-15, 15-40, 20-5, 22-14, 25-10, 25-70,
22 75-50, and 75-55 and by adding Sections 15-20 and 15-30 as
23 follows:

24 (225 ILCS 411/5-15)

1 (Section scheduled to be repealed on January 1, 2021)

2 Sec. 5-15. Definitions. In this Act:

3 "Address of record" means the designated address recorded
4 by the Department in the applicant's or licensee's application
5 file or license file. It is the duty of the applicant or
6 licensee to inform the Department of any change of address
7 within 14 days either through the Department's website or by
8 contacting the Department's licensure maintenance unit. The
9 address of record for a cemetery authority shall be the
10 permanent street address of the cemetery.

11 "Applicant" means a person applying for licensure under
12 this Act as a cemetery authority, cemetery manager, or customer
13 service employee. Any applicant or any person who holds himself
14 or herself out as an applicant is considered a licensee for
15 purposes of enforcement, investigation, hearings, and the
16 Illinois Administrative Procedure Act.

17 "Burial permit" means a permit for the disposition of a
18 dead human body that is filed with the Illinois Department of
19 Public Health.

20 "Care" means the maintenance of a cemetery and of the lots,
21 graves, crypts, niches, family mausoleums, memorials, and
22 markers therein, including: (i) the cutting and trimming of
23 lawn, shrubs, and trees at reasonable intervals; (ii) keeping
24 in repair the drains, water lines, roads, buildings, fences,
25 and other structures, in keeping with a well-maintained
26 cemetery as provided for in Section 20-5 of this Act and

1 otherwise as required by rule; (iii) maintenance of machinery,
2 tools, and equipment for such care; (iv) compensation of
3 cemetery workers, any discretionary payment of insurance
4 premiums, and any reasonable payments for workers' pension and
5 other benefits plans; and (v) the payment of expenses necessary
6 for such purposes and for maintaining necessary records of lot
7 ownership, transfers, and burials.

8 "Care funds", as distinguished from receipts from annual
9 charges or gifts for current or annual care, means any realty
10 or personalty impressed with a trust by the terms of any gift,
11 grant, contribution, payment, legacy, or pursuant to contract,
12 accepted by any cemetery authority or by any trustee, licensee,
13 agent, or custodian for the same, under Article 15 of this Act,
14 and any income accumulated therefrom, where legally so directed
15 by the terms of the transaction by which the principal was
16 established.

17 "Cemetery" means any land or structure in this State
18 dedicated to and used, or intended to be used, for the
19 interment, inurnment, or entombment of human remains.

20 "Cemetery association" means an association of 6 or more
21 persons, and their successors in trust, who have received
22 articles of organization from the Secretary of State to operate
23 a cemetery; the articles of organization shall be in perpetuity
24 and in trust for the use and benefit of all persons who may
25 acquire burial lots in a cemetery.

26 "Cemetery authority" means any individual or legal entity

1 that owns or controls cemetery lands or property.

2 "Cemetery manager" means an individual who is engaged in,
3 or responsible for, or holding himself or herself out as
4 engaged in, those activities involved in or incidental to
5 supervising the following: the maintenance, operation,
6 development, or improvement of a cemetery licensed under this
7 Act; the interment of human remains; or the care, preservation,
8 and embellishment of cemetery property. This definition
9 includes, without limitation, an employee, an individual that
10 is an independent contractor, an individual employed or
11 contracted by an independent contractor, a third-party vendor,
12 or an individual employed or contracted by a third-party vendor
13 who is engaged in, or holding himself or herself out as engaged
14 in, those activities involved in or incidental to supervising
15 the following: the maintenance, operation, development, or
16 improvement of a cemetery licensed under this Act; the
17 interment of human remains; or the care, preservation, and
18 embellishment of cemetery property. This definition does not
19 include volunteer workers who receive no compensation, either
20 directly or indirectly, for their work as cemetery managers.

21 "Cemetery operation" means to engage or attempt to engage
22 in the interment, inurnment, or entombment of human remains or
23 to engage in or attempt to engage in the care of a cemetery.

24 "Cemetery Oversight Database" means a database certified
25 by the Department as effective in tracking the interment,
26 entombment, or inurnment of human remains.

1 "Cemetery worker" means an individual, including an
2 independent contractor or third-party vendor, who performs any
3 work at the cemetery that is customarily performed by one or
4 more cemetery employees, including openings and closings of
5 vaults and graves, stone settings, inurnments, interments,
6 entombments, administrative work, handling of any official
7 burial records, the preparation of foundations for memorials,
8 and routine cemetery maintenance. This definition does not
9 include ~~uncompensated~~, volunteer workers who receive no
10 compensation, either directly or indirectly, for their work as
11 cemetery workers.

12 "Certificate of organization" means the document received
13 by a cemetery association from the Secretary of State that
14 indicates that the cemetery association shall be deemed fully
15 organized as a body corporate under the name adopted and in its
16 corporate name may sue and be sued.

17 "Comptroller" means the Comptroller of the State of
18 Illinois.

19 "Consumer" means a person, or the persons given priority
20 for the disposition of an individual's remains under the
21 Disposition of Remains Act, who purchases or is considering
22 purchasing cemetery, burial, or cremation products or services
23 from a cemetery authority or crematory authority, whether for
24 themselves or for another person.

25 "Customer service employee" means an individual who has
26 direct contact with consumers and explains cemetery

1 merchandise or services or negotiates, develops, or finalizes
2 contracts with consumers. This definition includes, without
3 limitation, an employee, an individual that is an independent
4 contractor, an individual that is employed or contracted by an
5 independent contractor, a third-party vendor, or an individual
6 that is employed or contracted by a third-party vendor, who has
7 direct contact with consumers and explains cemetery
8 merchandise or services or negotiates, develops, or finalizes
9 contracts with consumers. This definition does not include an
10 employee, an individual that is an independent contractor or an
11 individual that is employed or contracted by an independent
12 contractor, a third party vendor, or an individual that is
13 employed or contracted by a third party vendor, who merely
14 provides a printed cemetery list to a consumer, processes
15 payment from a consumer, or performs sales functions related
16 solely to incidental merchandise like flowers, souvenirs, or
17 other similar items. This definition does not include volunteer
18 workers who receive no compensation, either directly or
19 indirectly, for their work as customer service employees.

20 "Department" means the Department of Financial and
21 Professional Regulation.

22 "Employee" means an individual who works for a cemetery
23 authority where the cemetery authority has the right to control
24 what work is performed and the details of how the work is
25 performed regardless of whether federal or State payroll taxes
26 are withheld.

1 "Entombment right" means the right to place individual
2 human remains or individual cremated human remains in a
3 specific mausoleum crypt or lawn crypt selected by a consumer
4 for use as a final resting place.

5 "Family burying ground" means a cemetery in which no lots,
6 crypts, or niches are sold to the public and in which
7 interments, inurnments, and entombments are restricted to the
8 immediate family or a group of individuals related to each
9 other by blood or marriage.

10 "Religious burying ground" means a cemetery in which no
11 lots, crypts, or niches are sold and in which interments,
12 inurnments, and entombments are restricted to a group of
13 individuals all belonging to a religious order or granted
14 burial rights by special consideration of the religious order.

15 "Full exemption" means an exemption granted to a cemetery
16 authority pursuant to subsection (a) of Section 5-20.

17 "Funeral director" means a funeral director as defined by
18 the Funeral Directors and Embalmers Licensing Code.

19 "Grave" means a space of ground in a cemetery used or
20 intended to be used for burial.

21 "Green burial or cremation disposition" means burial or
22 cremation practices that reduce the greenhouse gas emissions,
23 waste, and toxic chemicals ordinarily created in burial or
24 cremation or, in the case of greenhouse gas emissions, mitigate
25 or offset emissions. Such practices include standards for
26 burial or cremation certified by the Green Burial Council or

1 any other organization or method that the Department may name
2 by rule.

3 "Immediate family" means the designated agent of a person
4 or the persons given priority for the disposition of a person's
5 remains under the Disposition of Remains Act and shall include
6 a person's spouse, parents, grandparents, children,
7 grandchildren and siblings.

8 "Imputed value" means the retail price of comparable rights
9 within the same or similar area of the cemetery.

10 "Independent contractor" means a person who performs work
11 for a cemetery authority where the cemetery authority has the
12 right to control or direct only the result of the work and not
13 the means and methods of accomplishing the result.

14 "Individual" means a natural person.

15 "Interment right" means the right to place individual human
16 remains or cremated human remains in a specific underground
17 location selected by a consumer for use as a final resting
18 place.

19 "Inurnment right" means the right to place individual
20 cremated human remains in a specific niche selected by the
21 consumer for use as a final resting place.

22 "Investment Company Act of 1940" means Title 15 of the
23 United States Code, Sections 80a-1 to 80a-64, inclusive, as
24 amended.

25 "Investment company" means any issuer (a) whose securities
26 are purchasable only with care funds or trust funds, or both;

1 (b) that is an open and diversified management company as
2 defined in and registered under the Investment Company Act of
3 1940; and (c) that has entered into an agreement with the
4 Department containing such provisions as the Department by
5 regulation requires for the proper administration of this Act.

6 "Lawn crypt" means a permanent underground crypt installed
7 in multiple units for the interment of human remains.

8 "Licensee" means a person licensed under this Act as a
9 cemetery authority, cemetery manager, or customer service
10 employee. Anyone who holds himself or herself out as a licensee
11 or who is accused of unlicensed practice is considered a
12 licensee for purposes of enforcement, investigation, hearings,
13 and the Illinois Administrative Procedure Act. This definition
14 does not include a cemetery worker.

15 "Mausoleum crypt" means a space in a mausoleum used or
16 intended to be used, above or underground, to entomb human
17 remains.

18 "Niche" means a space in a columbarium or mausoleum used,
19 or intended to be used, for inurnment of cremated human
20 remains.

21 "Partial exemption" means an exemption granted to a
22 cemetery authority pursuant to subsection (b) of Section 5-20.

23 ~~"Parcel identification number" means a unique number~~
24 ~~assigned to a grave, plot, crypt, or niche that enables the~~
25 ~~Department to ascertain the precise location of a decedent's~~
26 ~~remains interred, entombed, or inurned after the effective date~~

1 ~~of this Act.~~

2 "Person" means any individual, firm, partnership,
3 association, corporation, limited liability company, trustee,
4 government or political subdivision, or other entity.

5 "Public cemetery" means a cemetery owned, operated,
6 controlled, or managed by the federal government, by any state,
7 county, city, village, incorporated town, township,
8 multi-township, public cemetery district, or other municipal
9 corporation, political subdivision, or instrumentality thereof
10 authorized by law to own, operate, or manage a cemetery.

11 "Religious cemetery" means a cemetery owned, operated,
12 controlled, or managed by any recognized church, religious
13 society, association, or denomination, or by any cemetery
14 authority or any corporation administering, or through which is
15 administered, the temporalities of any recognized church,
16 religious society, association, or denomination.

17 "Secretary" means the Secretary of Financial and
18 Professional Regulation.

19 "Term burial" means a right of interment sold to a consumer
20 in which the cemetery authority retains the right to disinter
21 and relocate the remains, subject to the provisions of
22 subsection (d) of Section 35-15 of this Act.

23 "Trustee" means any person authorized to hold funds under
24 this Act.

25 ~~"Unique personal identifier" means the parcel~~
26 ~~identification number in addition to the term of burial in~~

1 ~~years; the numbered level or depth in the grave, plot, crypt,~~
2 ~~or niche; and the year of death for human remains interred,~~
3 ~~entombed, or inurned after the effective date of this Act.~~

4 (Source: P.A. 96-863, eff. 3-1-10.)

5 (225 ILCS 411/5-20)

6 (Section scheduled to be repealed on January 1, 2021)

7 Sec. 5-20. Exemptions.

8 (a) Notwithstanding any provision of law to the contrary,
9 this Act does not apply to (1) any cemetery authority operating
10 as a family burying ground or religious burying ground, (2) any
11 cemetery authority that has not engaged in an interment,
12 inurnment, or entombment of human remains within the last 10
13 years and does not accept or maintain care funds, or (3) any
14 cemetery authority that is less than 2 acres and does not
15 accept or maintain care funds. For purposes of determining the
16 applicability of this subsection, the number of interments,
17 inurnments, and entombments shall be aggregated for each
18 calendar year. A cemetery authority claiming a full exemption
19 shall apply for exempt status as provided for in Section 10-20
20 ~~Article 10~~ of this Act. A cemetery authority that performs
21 activities that would disqualify it from a full exemption is
22 required to apply for licensure within one year following the
23 date on which its activities would disqualify it for a full
24 exemption. A cemetery authority that previously qualified for
25 and maintained a full exemption that fails to timely apply for

1 licensure shall be deemed to have engaged in unlicensed
2 practice and shall be subject to discipline in accordance with
3 Article 25 of this Act.

4 (b) ~~A Notwithstanding any provision of law to the contrary,~~
5 ~~a~~ cemetery authority that does not qualify for a full exemption
6 and that is operating as a cemetery authority (i) ~~that~~ engages
7 in 25 or fewer interments, inurnments, or entombments of human
8 remains for each of the preceding 2 calendar years and does not
9 accept or maintain care funds, (ii) operates ~~that is operating~~
10 as a public cemetery, or (iii) operates ~~that is operating~~ as a
11 religious cemetery is exempt from this Act, but is required to
12 comply with subsections (a), (b), (b-5), (c), and (d) of
13 Section 20-5, Sections 20-5(a), 20-5(b), 20-5(b-5), 20-5(e),
14 20-5(d), 20-6, 20-8, 20-10, 20-11, 20-12, 20-30, 25-3, and
15 25-120, and Article 35 of this Act.

16 A cemetery authority that (i) does not qualify for a full
17 exemption, (ii) operates as a public cemetery or religious
18 cemetery, and (iii) holds care funds shall also comply with
19 Section 10-23, subsections (a), (b), (c), and (d) of Section
20 15-5, subsections (c-5) and (f) of Section 15-15, and Sections
21 15-20, 15-25, and 15-30 of this Act.

22 Cemetery authorities claiming a partial exemption shall
23 apply for the partial exemption as provided in Section 10-20
24 ~~Article 10~~ of this Act. A cemetery authority that changes to a
25 status that would disqualify it from a partial exemption is
26 required to apply for licensure within one year following the

1 date on which it changes its status. A cemetery authority that
2 maintains a partial exemption that fails to timely apply for
3 licensure shall be deemed to have engaged in unlicensed
4 practice and shall be subject to discipline in accordance with
5 Article 25 of this Act.

6 (c) Nothing in this Act applies to the City of Chicago in
7 its exercise of its powers under the O'Hare Modernization Act
8 or limits the authority of the City of Chicago to acquire
9 property or otherwise exercise its powers under the O'Hare
10 Modernization Act, or requires the City of Chicago, or any
11 person acting on behalf of the City of Chicago, to comply with
12 the licensing, regulation, investigation, or mediation
13 requirements of this Act in exercising its powers under the
14 O'Hare Modernization Act.

15 (Source: P.A. 96-863, eff. 3-1-10.)

16 (225 ILCS 411/5-25)

17 (Section scheduled to be repealed on January 1, 2021)

18 Sec. 5-25. Powers of the Department. Subject to the
19 provisions of this Act, the Department may exercise the
20 following powers:

21 (1) Authorize written examinations to ascertain the
22 qualifications and fitness of applicants for licensing as a
23 licensed cemetery manager or as a customer service employee to
24 ascertain whether they possess the requisite level of knowledge
25 for such position.

1 (2) Examine and audit a licensed cemetery authority's care
2 funds, records from any year, and records of care funds from
3 any year, or any other aspects of cemetery operation as the
4 Department deems appropriate.

5 (3) Investigate any and all cemetery-related activity.

6 (4) Conduct hearings on proceedings to refuse to issue or
7 renew licenses or to revoke, suspend, place on probation,
8 reprimand, or otherwise discipline a license under this Act or
9 take other non-disciplinary action.

10 (5) Adopt reasonable rules required for the administration
11 of this Act.

12 (6) Prescribe forms to be issued for the administration and
13 enforcement of this Act.

14 (7) Maintain rosters of the names and addresses of all
15 licensees and all persons whose licenses have been suspended,
16 revoked, denied renewal, or otherwise disciplined within the
17 previous calendar year. These rosters shall be available upon
18 written request and payment of the required fee as established
19 by rule.

20 (8) Contract with third parties for services necessary for
21 the proper administration of this Act, including, without
22 limitation, investigators with the proper knowledge, training,
23 and skills to properly inspect cemeteries and investigate
24 complaints under this Act.

25 (Source: P.A. 96-863, eff. 3-1-10.)

1 (225 ILCS 411/10-5)

2 (Section scheduled to be repealed on January 1, 2021)

3 Sec. 10-5. Restrictions and limitations. No person shall,
4 without a valid license issued by the Department, (i) hold
5 himself or herself out in any manner to the public as a
6 licensed cemetery authority, licensed cemetery manager, or
7 customer service employee ~~or~~ (ii) attach the title "licensed
8 cemetery authority", "licensed cemetery manager", or "licensed
9 customer service employee" to his or her name. No person shall,
10 without a valid license or exemption from licensure from the
11 Department, (i), ~~(iii)~~ render or offer to render services
12 constituting the practice of cemetery operation~~r~~ or (ii) ~~(iv)~~
13 accept care funds within the meaning of this Act or otherwise
14 hold funds for care and maintenance unless such person is
15 holding and managing funds on behalf of a cemetery authority
16 and is authorized to conduct a trust business under the
17 Corporate Fiduciary Act or the federal National Bank Act.

18 (Source: P.A. 96-863, eff. 3-1-10.)

19 (225 ILCS 411/10-10)

20 (Section scheduled to be repealed on January 1, 2021)

21 Sec. 10-10. Persons licensed under the Cemetery Care Act or
22 Cemetery Association Act. A person acting as a licensed
23 cemetery authority under the Cemetery Care Act or Cemetery
24 Association Act prior to their repeal on March 1, 2012 must
25 comply with those Acts until the Department takes action on the

1 person's application for a cemetery authority license in
2 accordance with this Act. The application for a cemetery
3 authority license under this Article must be submitted to the
4 Department within 9 months after the Department adopts rules
5 under ~~effective date of~~ this Act. If the person fails to submit
6 the application within this period, then the person shall be
7 considered to be engaged in unlicensed practice and shall be
8 subject to discipline in accordance with Article 25 of this
9 Act.

10 (Source: P.A. 96-863, eff. 3-1-10.)

11 (225 ILCS 411/10-15)

12 (Section scheduled to be repealed on January 1, 2021)

13 Sec. 10-15. Persons not licensed under the Cemetery Care
14 Act or the Cemetery Association Act. A cemetery manager, a
15 customer service employee, or a person acting as a cemetery
16 authority who was not required to obtain licensure prior to the
17 effective date of this Act need not comply with the licensure
18 requirement in this Article until the Department takes action
19 on the person's application for a license. The application for
20 a cemetery authority license must be submitted to the
21 Department within 6 months after the Department adopts rules
22 under ~~effective date of~~ this Act. For cemetery managers already
23 working for a cemetery authority at the time of cemetery
24 authority application for licensure, the application for a
25 cemetery manager license must be submitted at the same time as

1 the original application for licensure as a cemetery authority
2 pursuant to this Section or Section 10-10, whichever the case
3 may be. Any applicant for licensure as a cemetery manager of a
4 cemetery authority that is already licensed under this Act or
5 that has a pending application for licensure under this Act
6 must submit his or her application to the Department on or
7 before his or her first day of work. The application for a
8 customer service employee license must be submitted to the
9 Department within 10 days after the cemetery authority for
10 which he or she works becomes licensed under this Act or on or
11 before his or her first day of work, whichever the case may be.
12 If the person fails to submit the application within the
13 required period, the person shall be considered to be engaged
14 in unlicensed practice and shall be subject to discipline in
15 accordance with Article 25 of this Act.

16 (Source: P.A. 96-863, eff. 3-1-10.)

17 (225 ILCS 411/10-20)

18 (Section scheduled to be repealed on January 1, 2021)

19 Sec. 10-20. Application for original license or exemption.

20 (a) Applications for original licensure as a cemetery
21 authority, cemetery manager, or customer service employee
22 authorized by this Act, or application for exemption from
23 licensure as a cemetery authority, shall be made to the
24 Department on forms prescribed by the Department, which shall
25 include the applicant's Social Security number or FEIN number,

1 or both, and shall be accompanied by the required fee as set by
2 rule. Applications for partial or full exemption from licensure
3 as a cemetery authority shall be submitted to the Department
4 within 12 months after the Department adopts rules under this
5 Act. If the person fails to submit the application for partial
6 or full exemption within this period, the person shall be
7 subject to discipline in accordance with Article 25 of this
8 Act. The process for renewing a full or partial exemption shall
9 be set by rule. If a cemetery authority seeks to practice at
10 more than one location, it shall meet all licensure
11 requirements at each location as required by this Act and by
12 rule, including submission of an application and fee. A person
13 licensed as a cemetery manager or customer service employee
14 need not submit a Worker's Statement in accordance with Section
15 10-22 of this Act.

16 (b) If ~~the application for licensure as~~ a cemetery
17 authority does not claim a full exemption or partial exemption
18 and maintains care funds, then the cemetery authority license
19 application shall be accompanied by a fidelity bond, proof of
20 self-insurance, or letter of credit in the amount required by
21 rule. Such bond, self-insurance, or letter of credit shall run
22 to the Department for the benefit of the care funds held by
23 such cemetery authority or by the trustee of the care funds of
24 such cemetery authority. If care funds of a cemetery authority
25 are held by any entity authorized to do a trust business under
26 the Corporate Fiduciary Act or held by an investment company,

1 then the Department shall waive the requirement of a bond,
2 self-insurance, or letter of credit as established by rule. If
3 the Department finds at any time that the bond, self-insurance,
4 or letter of credit is insecure or exhausted or otherwise
5 doubtful, then an additional bond, form of self-insurance, or
6 letter of credit in like amount to be approved by the
7 Department shall be filed by the cemetery authority applicant
8 or licensee within 30 days after written demand is served upon
9 the applicant or licensee by the Department. In addition, if
10 the cemetery authority application does not claim a full
11 exemption or partial exemption, then the license application
12 shall be accompanied by proof of liability insurance, proof of
13 self-insurance, or a letter of credit in the amount required by
14 rule. The procedure by which claims on the liability insurance,
15 self-insurance, or letter of credit are made and paid shall be
16 determined by rule. Any bond obtained pursuant to this
17 subsection shall be issued by a bonding company authorized to
18 do business in this State. Any letter of credit obtained
19 pursuant to this subsection shall be issued by a financial
20 institution authorized to do business in this State.
21 Maintaining the bonds, self-insurance, or letters of credit
22 required under this subsection is a continuing obligation for
23 licensure. A bonding company may terminate a bond, a financial
24 institution may terminate a letter of credit, or an insurance
25 company may terminate liability insurance and avoid further
26 liability by filing a 60-day notice of termination with the

1 Department and at the same time sending the same notice to the
2 cemetery authority.

3 (c) After initial licensure, if any person comes to obtain
4 at least 51% of the ownership over the licensed cemetery
5 authority, then the cemetery authority shall have to apply for
6 a new license and receive licensure in the required time as set
7 by rule. The current license remains in effect until the
8 Department takes action on the application for a new license.

9 (d) All applications shall contain the information that, in
10 the judgment of the Department, will enable the Department to
11 pass on the qualifications of the applicant for an exemption
12 from licensure or for a license to practice as a cemetery
13 authority, cemetery manager, or customer service employee as
14 set by rule.

15 (Source: P.A. 96-863, eff. 3-1-10.)

16 (225 ILCS 411/10-21)

17 (Section scheduled to be repealed on January 1, 2021)

18 Sec. 10-21. Qualifications for licensure.

19 (a) A cemetery authority shall apply for licensure on forms
20 prescribed by the Department and pay the required fee. An
21 applicant is qualified for licensure as a cemetery authority if
22 the applicant meets all of the following qualifications:

23 (1) The applicant is of good moral character and has
24 not committed any act or offense in any jurisdiction that
25 would constitute the basis for discipline under this Act.

1 In determining good moral character, the Department shall
2 take into consideration the following:

3 (A) the applicant's record of compliance with the
4 Code of Professional Conduct and Ethics, and whether
5 the applicant has been found to have engaged in any
6 unethical or dishonest practices in the cemetery
7 business;

8 (B) whether the applicant has been adjudicated,
9 civilly or criminally, to have committed fraud or to
10 have violated any law of any state involving unfair
11 trade or business practices, has been convicted of a
12 misdemeanor of which fraud is an essential element or
13 which involves any aspect of the cemetery business, or
14 has been convicted of any felony;

15 (C) whether the applicant has willfully violated
16 any provision of this Act or a predecessor law or any
17 regulations relating thereto;

18 (D) whether the applicant has been permanently or
19 temporarily suspended, enjoined, or barred by any
20 court of competent jurisdiction in any state from
21 engaging in or continuing any conduct or practice
22 involving any aspect of the cemetery or funeral
23 business; and

24 (E) whether the applicant has ever had any license
25 to practice any profession or occupation suspended,
26 denied, fined, or otherwise acted against or

1 disciplined by the applicable licensing authority.

2 If the applicant is a corporation, limited liability
3 company, partnership, or other entity permitted by law,
4 then each principal, owner, member, officer, and
5 shareholder holding 25% or more of corporate stock is to be
6 of good moral character. Good moral character is a
7 continuing requirement of licensure.

8 (2) The applicant provides evidence satisfactory to
9 the Department that the applicant has financial resources
10 sufficient to comply with the maintenance and
11 record-keeping provisions in Section 20-5 of this Act.
12 Maintaining sufficient financial resources is a continuing
13 requirement for licensure.

14 (3) The applicant has not, within the preceding 10
15 years, been convicted of or entered a plea of guilty or
16 nolo contendere to (i) a Class X felony or (ii) a felony,
17 an essential element of which was fraud or dishonesty under
18 the laws of this State, another state, the United States,
19 or a foreign jurisdiction. If the applicant is a
20 corporation, limited liability company, partnership, or
21 other entity permitted by law, then each principal, owner,
22 member, officer, and shareholder holding 25% or more of
23 corporate stock has not, within the preceding 10 years,
24 been convicted of or entered a plea of guilty or nolo
25 contendere to (i) a Class X felony or (ii) a felony, an
26 essential element of which was fraud or dishonesty under

1 the laws of this State, another state, the United States,
2 or a foreign jurisdiction.

3 (4) The applicant submits his or her fingerprints in
4 accordance with subsection (c) of this Section.

5 (5) The applicant has complied with all other
6 requirements of this Act and the rules adopted for the
7 implementation of this Act.

8 (b) The cemetery manager and customer service employees of
9 a licensed cemetery authority shall apply for licensure as a
10 cemetery manager or customer service employee on forms
11 prescribed by the Department and pay the required fee. A person
12 is qualified for licensure as a cemetery manager or customer
13 service employee if he or she meets all of the following
14 requirements:

15 (1) Is at least 18 years of age.

16 (2) Is of good moral character. Good moral character is
17 a continuing requirement of licensure. In determining good
18 moral character, the Department shall take into
19 consideration the factors outlined in item (1) of
20 subsection (a) of this Section.

21 (3) Submits proof of successful completion of a high
22 school education or its equivalent as established by rule.

23 (4) Submits his or her fingerprints in accordance with
24 subsection (c) of this Section.

25 (5) Has not committed a violation of this Act or any
26 rules adopted under this Act that, in the opinion of the

1 Department, renders the applicant unqualified to be a
2 cemetery manager or customer service employee.

3 (6) Successfully passes the examination authorized by
4 the Department for cemetery manager or customer service
5 employee, whichever is applicable.

6 (7) Has not, within the preceding 10 years, been
7 convicted of or entered a plea of guilty or nolo contendere
8 to (i) a Class X felony or (ii) a felony, an essential
9 element of which was fraud or dishonesty under the laws of
10 this State, another state, the United States, or a foreign
11 jurisdiction.

12 (8) Can be reasonably expected to treat consumers
13 professionally, fairly, and ethically.

14 (9) Has complied with all other requirements of this
15 Act and the rules adopted for implementation of this Act.

16 (c) Each applicant for a cemetery authority, cemetery
17 manager, or customer service employee license shall have his or
18 her fingerprints submitted to the Department of State Police in
19 an electronic format that complies with the form and manner for
20 requesting and furnishing criminal history record information
21 that is prescribed by the Department of State Police. These
22 fingerprints shall be checked against the Department of State
23 Police and Federal Bureau of Investigation criminal history
24 record databases. The Department of State Police shall charge
25 applicants a fee for conducting the criminal history records
26 check, which shall be deposited in the State Police Services

1 Fund and shall not exceed the actual cost of the records check.
2 The Department of State Police shall furnish, pursuant to
3 positive identification, records of Illinois convictions to
4 the Department. The Department may require applicants to pay a
5 separate fingerprinting fee, either to the Department or
6 directly to a designated fingerprint vendor. The Department, in
7 its discretion, may allow an applicant who does not have
8 reasonable access to a designated fingerprint vendor to provide
9 his or her fingerprints in an alternative manner. The
10 Department, in its discretion, may also use other procedures in
11 performing or obtaining criminal background checks of
12 applicants. Instead of submitting his or her fingerprints, an
13 individual may submit proof that is satisfactory to the
14 Department that an equivalent security clearance has been
15 conducted. If the applicant for a cemetery authority license is
16 a corporation, limited liability company, partnership, or
17 other entity permitted by law, then each principal, owner,
18 member, officer, and shareholder holding 25% or more of
19 corporate stock shall have his or her fingerprints submitted in
20 accordance with this subsection (c).

21 (Source: P.A. 96-863, eff. 3-1-10.)

22 (225 ILCS 411/10-25)

23 (Section scheduled to be repealed on January 1, 2021)

24 Sec. 10-25. Examination; failure or refusal to take the
25 examination.

1 (a) The Department shall authorize examinations of
2 cemetery manager and customer service employee applicants at
3 such times and places as it may determine. The examinations
4 shall fairly test an applicant's qualifications to practice as
5 cemetery manager or customer service employee, whatever the
6 case may be, and knowledge of the theory and practice of
7 cemetery operation and management or cemetery customer
8 service, whichever is applicable. The examination shall
9 further test the extent to which the applicant understands and
10 appreciates that the final disposal of a deceased human body
11 should be attended with appropriate observance and
12 understanding, having due regard and respect for the reverent
13 care of the human body and for those bereaved and for the
14 overall spiritual dignity of an individual.

15 (a-5) The examinations for cemetery manager and customer
16 service employee shall be appropriate for cemetery
17 professionals and shall not cover mortuary science.

18 (a-10) (Blank). ~~The examinations for cemetery manager and~~
19 ~~customer service employee applicants shall be tiered, as~~
20 ~~determined by rule, to account for the different amount of~~
21 ~~knowledge needed by such applicants depending on their job~~
22 ~~duties and the number of interments, inurnments, and~~
23 ~~entombments per year at the cemetery at which they work.~~

24 (b) Applicants for examinations shall pay, either to the
25 Department or to the designated testing service, a fee covering
26 the cost of providing the examination. Failure to appear for

1 the examination on the scheduled date at the time and place
2 specified after the application for examination has been
3 received and acknowledged by the Department or the designated
4 testing service shall result in forfeiture of the examination
5 fee.

6 (c) If the applicant neglects, fails, or refuses to take an
7 examination or fails to pass an examination for a license under
8 this Act within one year after filing an application, then the
9 application shall be denied. However, the applicant may
10 thereafter submit a new application accompanied by the required
11 fee. The applicant shall meet the requirements in force at the
12 time of making the new application.

13 (d) The Department may employ consultants for the purpose
14 of preparing and conducting examinations.

15 (e) The Department shall have the authority to adopt or
16 recognize, in part or in whole, examinations prepared,
17 administered, or graded by other organizations in the cemetery
18 industry that are determined appropriate to measure the
19 qualifications of an applicant for licensure.

20 (Source: P.A. 96-863, eff. 3-1-10.)

21 (225 ILCS 411/15-5)

22 (Section scheduled to be repealed on January 1, 2021)

23 Sec. 15-5. Gifts and contributions; trust funds.

24 (a) A ~~licensed~~ cemetery authority is hereby authorized and
25 empowered to accept any gift, grant, contribution, payment,

1 legacy, or pursuant to contract, any sum of money, funds,
2 securities, or property of any kind, or the income or avails
3 thereof, and to establish a trust fund to hold the same in
4 perpetuity for the care of its cemetery, or for the care of any
5 lot, grave, crypt, or niche in its cemetery, or for the special
6 care of any lot, grave, crypt, or niche or of any family
7 mausoleum or memorial, marker, or monument in its cemetery.

8 (a-5) For licensed cemetery authorities accepting care
9 funds, not ~~Not~~ less than the following amounts will be set
10 aside and deposited in trust:

11 (1) For interment rights, \$1 per square foot of the
12 space sold or 15% of the sales price or imputed value,
13 whichever is the greater, with a minimum of \$25 for each
14 individual interment right.

15 (2) For entombment rights, not less than 10% of the
16 sales price or imputed value with a minimum of \$25 for each
17 individual entombment right.

18 (3) For inurnment rights, not less than 10% of the
19 sales price or imputed value with a minimum of \$15 for each
20 individual inurnment right.

21 (4) For any transfer of interment rights, entombment
22 rights, or inurnment rights recorded in the records of the
23 cemetery authority, a minimum of \$25 for each such right
24 transferred. This does not apply to transfers between a
25 transferor and his or her spouse, parents, grandparents,
26 children, grandchildren, or siblings.

1 (5) ~~For~~ ~~Upon~~ an interment, entombment, or inurnment in
2 a grave, crypt, or niche in which rights of interment,
3 entombment, or inurnment were originally acquired from a
4 cemetery authority prior to January 1, 1948, a minimum of
5 \$25 for each such right exercised.

6 (6) For an interment, entombment, or inurnment in a
7 grave, crypt, or niche in which the rights of interment,
8 entombment, or inurnment were originally acquired from a
9 cemetery authority prior to the creation of the cemetery's
10 care fund, a minimum of \$25 for each such right exercised
11 on or after the date of the creation of the cemetery's care
12 fund.

13 (7) For the special care of any lot, grave, crypt, or
14 niche or of a family mausoleum, memorial, marker, or
15 monument, the full amount received.

16 (b) The cemetery authority shall act as trustee of all
17 amounts received for care unless and until they have been
18 deposited with a corporate fiduciary as defined in Section
19 1-5.05 of the Corporate Fiduciary Act. A licensed cemetery
20 authority may continue to be the trustee of care funds that
21 have been deposited into its trust fund up to an amount as set
22 by rule, but the licensed cemetery authority must retain an
23 independent trustee for any amount of care funds held in trust
24 in excess of that amount. All trust deposits shall be made
25 within 30 days after receipt.

26 (c) No gift, grant, legacy, payment, or other contribution

1 shall be invalid by reason of any indefiniteness or uncertainty
2 as to the beneficiary designated in the instrument creating the
3 gift, grant, legacy, payment, or other contribution. If any
4 gift, grant, legacy, payment, or other contribution consists of
5 non-income producing property, then the cemetery authority
6 accepting it is authorized and empowered to sell such property
7 and to invest the funds obtained in accordance with subsection
8 (d) of this Section.

9 (d) The care funds authorized by this Section and provided
10 for in this Article shall be held intact and, unless otherwise
11 restricted by the terms of the gift, grant, legacy,
12 contribution, payment, contract, or other payment, as to
13 investments made after June 11, 1951, the trustee of the care
14 funds of the cemetery authority, in acquiring, investing,
15 reinvesting, exchanging, retaining, selling, and managing
16 property for any such trust, shall act in accordance with the
17 duties for trustees set forth in the Illinois Trusts and
18 Trustees Act. Within the limitations of the foregoing standard,
19 the trustee of the care funds of the cemetery authority is
20 authorized to acquire and retain every kind of property, real,
21 personal, or mixed, and every kind of investment, including
22 specifically, but without limiting the generality of the
23 foregoing, bonds, debentures and other corporate obligations,
24 preferred or common stocks and real estate mortgages, which
25 persons of prudence, discretion, and intelligence acquire or
26 retain for their own account. Within the limitations of the

1 foregoing standard, the trustee is authorized to retain
2 property properly acquired, without limitation as to time and
3 without regard to its suitability for original purchase. The
4 care funds authorized by this Section may be commingled with
5 other trust funds received by such cemetery authority for the
6 care of its cemetery or for the care or special care of any
7 lot, grave, crypt, niche, private mausoleum, memorial, marker,
8 or monument in its cemetery, whether received by gift, grant,
9 legacy, contribution, payment, contract, or other conveyance
10 made to such cemetery authority. Such care funds may be
11 invested with common trust funds as provided in the Common
12 Trust Fund Act. The net income only from the investment of such
13 care funds shall be allocated and used for the purposes
14 specified in the transaction by which the principal was
15 established in the proportion that each contribution bears to
16 the entire sum invested.

17 (Source: P.A. 96-863, eff. 3-1-10.)

18 (225 ILCS 411/15-15)

19 (Section scheduled to be repealed on January 1, 2021)

20 Sec. 15-15. Care funds; deposits; investments.

21 (a) Whenever a cemetery authority accepts care funds,
22 either in connection with the sale or giving away at an imputed
23 value of an interment right, entombment right, or inurnment
24 right, or in pursuance of a contract, or whenever, as a
25 condition precedent to the purchase or acceptance of an

1 interment right, entombment right, or inurnment right, such
2 cemetery authority shall establish a care fund or deposit the
3 funds in an already existing care fund.

4 (b) The cemetery authority shall execute and deliver to the
5 person from whom it received the care funds an instrument in
6 writing that shall specifically state: (i) the nature and
7 extent of the care to be furnished and (ii) that such care
8 shall be furnished only in so far as net income derived from
9 the amount deposited in trust will permit (the income from the
10 amount so deposited, less necessary expenditures of
11 administering the trust, shall be deemed the net income).

12 (c) The setting-aside and deposit of care funds shall be
13 made by such cemetery authority no later than 30 days after the
14 close of the month in which the cemetery authority gave away
15 for an imputed value or received the final payment on the
16 purchase price of interment rights, entombment rights, or
17 inurnment rights, or received the final payment for the general
18 or special care of a lot, grave, crypt, or niche or of a family
19 mausoleum, memorial, marker, or monument, and such amounts
20 shall be held by the trustee of the care funds of such cemetery
21 authority in trust and in perpetuity for the specific purposes
22 stated in the written instrument described in subsection (b).

23 (c-5) For all care funds received by a cemetery authority,
24 except for care funds received by a cemetery authority pursuant
25 to a specific gift, grant, contribution, payment, legacy, or
26 contract that are subject to investment restrictions more

1 restrictive than the investment provisions set forth in this
2 Act, and except for care funds otherwise subject to a trust
3 agreement executed by a person or persons responsible for
4 transferring the specific gift, grant, contribution, payment,
5 or legacy to the cemetery authority that contains investment
6 restrictions more restrictive than the investment provisions
7 set forth in this Act, the cemetery authority may, without the
8 necessity of having to obtain prior approval from any court in
9 this State, designate a new trustee in accordance with this Act
10 and invest the care funds in accordance with this Section,
11 notwithstanding any contrary limitation contained in the trust
12 agreement.

13 (d) Any cemetery authority engaged in selling or giving
14 away at an imputed value interment rights, entombment rights,
15 or inurnment rights, in conjunction with the selling or giving
16 away at an imputed value any other merchandise or services not
17 covered by this Act, shall be prohibited from increasing the
18 sales price or imputed value of those items not requiring a
19 care fund deposit under this Act with the purpose of allocating
20 a lesser sales price or imputed value to items that require a
21 care fund deposit.

22 (e) If any sale that requires a deposit to a cemetery
23 authority's care fund is made by a cemetery authority on an
24 installment basis, and the installment contract is factored,
25 discounted, or sold to a third party, then the cemetery
26 authority shall deposit the amount due to the care fund within

1 30 days after the close of the month in which the installment
2 contract was factored, discounted, or sold. If, subsequent to
3 such deposit, the purchaser defaults on the contract such that
4 no care fund deposit on that contract would have been required,
5 then the cemetery authority may apply the amount deposited as a
6 credit against future required deposits.

7 (f) The trust authorized by this Section shall be a single
8 purpose trust fund. In the event of the cemetery authority's
9 bankruptcy, insolvency, or assignment for the benefit of
10 creditors, or an adverse judgment, the trust funds shall not be
11 available to any creditor as assets of the cemetery authority
12 or to pay any expenses of any bankruptcy or similar proceeding,
13 but shall be retained intact to provide for the future
14 maintenance of the cemetery. Except in an action by the
15 Department to revoke a license issued pursuant to this Act and
16 for creation of a receivership as provided in this Act, the
17 trust shall not be subject to judgment, execution, garnishment,
18 attachment, or other seizure by process in bankruptcy or
19 otherwise, nor to sale, pledge, mortgage, or other alienation,
20 and shall not be assignable except as approved by the
21 Department.

22 (Source: P.A. 96-863, eff. 3-1-10.)

23 (225 ILCS 411/15-20 new)

24 (Section scheduled to be repealed on January 1, 2021)

25 Sec. 15-20. Use of care funds by a public cemetery. When

1 the State of Illinois or any county, city, village,
2 incorporated town, township, multi-township, public cemetery
3 district, or other municipal or political subdivision or
4 instrumentality thereof in Illinois takes over a cemetery or
5 cemetery authority, the care fund and care fund expenditures
6 continue to be subject to the provisions of this Act, and the
7 new public cemetery must continue to use the care fund
8 exclusively for the care and maintenance of the cemetery in
9 accordance with this Act.

10 (225 ILCS 411/15-30 new)

11 (Section scheduled to be repealed on January 1, 2021)

12 Sec. 15-30. Promises of perpetual care.

13 (a) Except as provided in subsection (b) of this Section,
14 no cemetery authority shall advertise, represent, guarantee,
15 promise, or enter into a contract to furnish any of the
16 following types of care for a cemetery, lot, grave, crypt,
17 niche, family mausoleum, memorial, marker, or monument:

18 (1) perpetual care,

19 (2) permanent care,

20 (3) perpetual or permanent maintenance,

21 (4) care forever,

22 (5) continuous care,

23 (6) eternal care,

24 (7) everlasting care,

25 (8) care for any number of years, or

1 (9) any similar or equivalent care.

2 (b) A cemetery authority may advertise, represent,
3 guarantee, promise, or enter a contract to furnish care as
4 described in items (1) through (9) of subsection (a) if:

5 (1) the care is furnished solely from the net income
6 derived from funds held in trust as provided in Article 15
7 of this Act; or

8 (2) the contract provides that the principal of the
9 amount paid under the contract shall be used to furnish the
10 care and specifies the type of care and the number of years
11 for which it is to be given.

12 (225 ILCS 411/15-40)

13 (Section scheduled to be repealed on January 1, 2021)

14 Sec. 15-40. Trust examinations and audits.

15 (a) The Department may at any time investigate the cemetery
16 business of any licensee with respect to its care funds. The
17 Department shall examine at least annually every licensee who
18 holds \$250,000 or more in its care funds. For that purpose, the
19 Department shall have free access to the office and places of
20 business and to such records of all licensees and of all
21 trustees of the care funds of all licensees as shall relate to
22 the acceptance, use, and investment of care funds. The
23 Department may require the attendance of and examine under oath
24 all persons whose testimony may be required relative to such
25 business. In such cases the Department, or any qualified

1 representative of the Department whom the Department may
2 designate, may administer oaths to all such persons called as
3 witnesses, and the Department, or any such qualified
4 representative of the Department, may conduct such
5 examinations. The cost of an ~~initial~~ examination shall be
6 determined by rule.

7 (b) The Department may order additional audits or
8 examinations as it may deem necessary or advisable to ensure
9 the safety and stability of the trust funds and to ensure
10 compliance with this Act. These additional audits or
11 examinations shall only be made after good cause is established
12 by the Department in the written order. The grounds for
13 ordering these additional audits or examinations may include,
14 but shall not be limited to:

15 (1) material and unverified changes or fluctuations in
16 trust balances;

17 (2) the licensee changing trustees more than twice in
18 any 12-month period;

19 (3) any withdrawals or attempted withdrawals from the
20 trusts in violation of this Act; or

21 (4) failure to maintain or produce documentation
22 required by this Act.

23 The cost for additional audits or examinations, as
24 determined by rule, shall be borne by the cemetery authority.

25 (Source: P.A. 96-863, eff. 3-1-10.)

1 (225 ILCS 411/20-5)

2 (Section scheduled to be repealed on January 1, 2021)

3 Sec. 20-5. Maintenance and records.

4 (a) A cemetery authority shall provide reasonable
5 maintenance of the cemetery property and of all lots, graves,
6 crypts, and columbariums in the cemetery based on the type and
7 size of the cemetery, topographic limitations, and contractual
8 commitments with consumers. Subject to the provisions of this
9 subsection (a), reasonable maintenance includes:

10 (1) the laying of seed, sod, or other suitable ground
11 cover as soon as practical following an interment given the
12 weather conditions, climate, and season and the
13 interment's proximity to ongoing burial activity;

14 (2) the cutting of lawn throughout the cemetery at
15 reasonable intervals to prevent an overgrowth of grass and
16 weeds given the weather conditions, climate, and season;

17 (3) the trimming of shrubs to prevent excessive
18 overgrowth;

19 (4) the trimming of trees to remove dead limbs;

20 (5) keeping in repair the drains, water lines, roads,
21 buildings, fences, and other structures; and

22 (6) keeping the cemetery premises free of trash and
23 debris.

24 Reasonable maintenance by the cemetery authority shall not
25 preclude the exercise of lawful rights by the owner of an
26 interment, inurnment, or entombment right, or by the decedent's

1 immediate family or other heirs, in accordance with reasonable
2 rules and regulations of the cemetery or other agreement of the
3 cemetery authority.

4 In the case of a cemetery dedicated as a nature preserve
5 under the Illinois Natural Areas Preservation Act, reasonable
6 maintenance by the cemetery authority shall be in accordance
7 with the rules and master plan governing the dedicated nature
8 preserve.

9 The Department shall adopt rules to provide greater detail
10 as to what constitutes the reasonable maintenance required
11 under this Section. The rules shall differentiate between
12 cemeteries based on, among other things, the size and financial
13 strength of the cemeteries. The rules shall also provide a
14 reasonable opportunity for a cemetery authority accused of
15 violating the provisions of this Section to cure any such
16 violation in a timely manner given the weather conditions,
17 climate, and season before the Department initiates formal
18 proceedings.

19 (b) A cemetery authority, before commencing cemetery
20 operations or within 6 months after the effective date of this
21 Act, shall cause an overall map of its cemetery property,
22 delineating all lots or plots, blocks, sections, avenues,
23 walks, alleys, and paths and their respective designations, to
24 be filed at its on-site office, or if it does not maintain an
25 on-site office, at its principal place of business. A cemetery
26 manager's certificate acknowledging, accepting, and adopting

1 the map shall also be included with the map. The cemetery
2 authority shall update its map and manager's certificate within
3 a reasonable time after any expansion or alteration of the
4 cemetery property. The Department may order that the cemetery
5 authority obtain a cemetery plat and that it be filed at its
6 on-site office, or if it does not maintain an on-site office,
7 at its principal place of business, if only in the following
8 circumstances: (1) the cemetery authority is expanding or
9 altering the cemetery grounds; or (2) a human body that should
10 have been interred, entombed, or inurned at the cemetery is
11 missing, displaced, or dismembered and the cemetery map
12 contains serious discrepancies.

13 In exercising this discretion, the Department shall
14 consider whether the cemetery authority would experience an
15 undue hardship as a result of obtaining the plat. The cemetery
16 plat, as with all plats prepared under this Act, shall comply
17 with the Illinois Professional Land Surveyor Act of 1989 and
18 shall delineate, describe, and set forth all lots or plots,
19 blocks, sections, avenues, walks, alleys, and paths and their
20 respective designations. A cemetery manager's certificate
21 acknowledging, accepting, and adopting the plat shall also be
22 included with the plat.

23 (b-5) A cemetery authority shall maintain an index that
24 associates the identity of deceased persons interred,
25 entombed, or inurned after the effective date of this Act with
26 their respective place of interment, entombment, or inurnment.

1 (c) The cemetery authority shall open the cemetery map or
2 plat to public inspection. The cemetery authority shall make
3 available a copy of the overall cemetery map or plat upon
4 written request and shall, if practical, provide a copy of a
5 segment of the cemetery plat where interment rights are located
6 upon the payment of reasonable photocopy fees. Any unsold lots,
7 plots, or parts thereof, in which there are not human remains,
8 may be resurveyed and altered in shape or size and properly
9 designated on the cemetery map or plat. However, sold lots,
10 plots, or parts thereof in which there are human remains may
11 not be renumbered or renamed. Nothing contained in this
12 subsection, however, shall prevent the cemetery authority from
13 enlarging an interment right by selling to its owner the excess
14 space next to the interment right and permitting interments
15 therein, provided reasonable access to the interment right and
16 to adjoining interment rights is not thereby eliminated.

17 (d) A cemetery authority shall keep a record of every
18 interment, entombment, and inurnment completed after the
19 effective date of this Act. The record shall include the
20 deceased's name, age, date of burial, and the specific location
21 of the interred, entombed, or inurned ~~parcel identification~~
22 ~~number identifying where the human remains.~~ The specific
23 location shall correspond to the map or plat maintained in
24 accordance with subsection (b) of this Section ~~are interred,~~
25 ~~entombed, or inurned.~~ ~~The record shall also include the unique~~
26 ~~personal identifier as may be further defined by rule, which is~~

1 ~~the parcel identification number in addition to the term of~~
2 ~~burial in years; the numbered level or depth in the grave,~~
3 ~~plot, crypt, or niche; and the year of death.~~

4 (e) (Blank).

5 (f) A cemetery authority shall make available for
6 inspection and, upon reasonable request and the payment of a
7 reasonable copying fee, provide a copy of its rules and
8 regulations. A cemetery authority shall make available for
9 viewing and provide a copy of its current prices of interment,
10 inurnment, or entombment rights.

11 (g) A cemetery authority shall provide access to the
12 cemetery under the cemetery authority's reasonable rules and
13 regulations.

14 (h) A cemetery authority shall be responsible for the
15 proper opening and closing of all graves, crypts, or niches for
16 human remains in any cemetery property it owns.

17 (i) Any corporate or other business organization trustee of
18 the care funds of every licensed cemetery authority shall be
19 located in or a resident of this State. The licensed cemetery
20 authority and the trustee of care funds shall keep in this
21 State and use in its business such books, accounts, and records
22 as will enable the Department to determine whether such
23 licensee or trustee is complying with the provisions of this
24 Act and with the rules, regulations, and directions made by the
25 Department under this Act. The licensed cemetery authority
26 shall keep the books, accounts, and records in electronic or

1 written format at the location identified in the license issued
2 by the Department or as otherwise agreed by the Department in
3 writing. The books, accounts, and records shall be accessible
4 for review upon demand of the Department.

5 (Source: P.A. 96-863, eff. 3-1-10.)

6 (225 ILCS 411/22-14)

7 (Section scheduled to be repealed on January 1, 2021)

8 Sec. 22-14. Rules; bond requirement.

9 (a) The board of trustees of the cemetery association may
10 make any and all rules and regulations for the management of
11 the association not inconsistent with this Article or this Act.

12 (b) If any paid officer ~~All members of the board of~~
13 ~~trustees~~ of a cemetery association fails ~~that fail~~ to maintain
14 the bond or letter of credit as required under this Act, then
15 all members of the board of trustees shall remain jointly and
16 severally liable for damages and the paid officer who failed to
17 maintain the bond or letter of credit ~~each~~ shall be guilty of a
18 Class A misdemeanor for the first offense and a Class 4 felony
19 for second and subsequent offenses.

20 (Source: P.A. 96-863, eff. 3-1-10.)

21 (225 ILCS 411/25-10)

22 (Section scheduled to be repealed on January 1, 2021)

23 Sec. 25-10. Grounds for disciplinary action.

24 (a) The Department may refuse to issue or renew a license

1 or may revoke, suspend, place on probation, reprimand, or take
2 other disciplinary action as the Department may deem
3 appropriate, including imposing fines not to exceed \$10,000 for
4 each violation, with regard to any license under this Act, for
5 any one or combination of the following:

6 (1) Material misstatement in furnishing information to
7 the Department.

8 (2) Violations of this Act, except for Section 20-8, or
9 of the rules adopted under this Act.

10 (3) Conviction of, or entry of a plea of guilty or nolo
11 contendere to, any crime within the last 10 years that is a
12 Class X felony or is a felony involving fraud and
13 dishonesty under the laws of the United States or any state
14 or territory thereof.

15 (4) Making any misrepresentation for the purpose of
16 obtaining licensure or violating any provision of this Act
17 or the rules adopted under this Act.

18 (5) Professional incompetence.

19 (6) Gross malpractice.

20 (7) Aiding or assisting another person in violating any
21 provision of this Act or rules adopted under this Act.

22 (8) Failing, within 10 business days, to provide
23 information in response to a written request made by the
24 Department.

25 (9) Engaging in dishonorable, unethical, or
26 unprofessional conduct of a character likely to deceive,

1 defraud, or harm the public.

2 (10) Inability to practice with reasonable judgment,
3 skill, or safety as a result of habitual or excessive use
4 of alcohol, narcotics, stimulants, or any other chemical
5 agent or drug.

6 (11) Discipline by another state, District of
7 Columbia, territory, or foreign nation, if at least one of
8 the grounds for the discipline is the same or substantially
9 equivalent to those set forth in this Section.

10 (12) Directly or indirectly giving to or receiving from
11 any person, firm, corporation, partnership, or association
12 any fee, commission, rebate, or other form of compensation
13 for professional services not actually or personally
14 rendered.

15 (13) A finding by the Department that the licensee,
16 after having his or her license placed on probationary
17 status, has violated the terms of probation.

18 (14) Willfully making or filing false records or
19 reports in his or her practice, including, but not limited
20 to, false records filed with any governmental agency or
21 department.

22 (15) Inability to practice the profession with
23 reasonable judgment, skill, or safety.

24 (16) Failure to file an annual report or to maintain in
25 effect the required bond or to comply with an order,
26 decision, or finding of the Department made pursuant to

1 this Act.

2 (17) Directly or indirectly receiving compensation for
3 any professional services not actually performed.

4 (18) Practicing under a false or, except as provided by
5 law, an assumed name.

6 (19) Fraud or misrepresentation in applying for, or
7 procuring, a license under this Act or in connection with
8 applying for renewal of a license under this Act.

9 (20) Cheating on or attempting to subvert the licensing
10 examination administered under this Act.

11 (21) Unjustified failure to honor its contracts.

12 (22) Negligent supervision of a cemetery manager,
13 customer service employee, cemetery worker, or independent
14 contractor.

15 (23) A pattern of practice or other behavior which
16 demonstrates incapacity or incompetence to practice under
17 this Act.

18 (24) Allowing an individual who is not, but is required
19 to be, licensed under this Act to perform work for the
20 cemetery authority.

21 (25) Allowing an individual who has not, but is
22 required to, submit a Worker's Statement in accordance with
23 Section 10-22 of this Act to perform work at the cemetery.

24 (b) No action may be taken under this Act against a person
25 licensed under this Act unless the action is commenced within 5
26 years after the occurrence of the alleged violations, except

1 for a violation of item (3) of subsection (a) of this Section.
2 If a person licensed under this Act violates item (3) of
3 subsection (a) of this Section, then the action may commence
4 within 10 years after the occurrence of the alleged violation.

5 A continuing violation shall be deemed to have occurred on the
6 date when the circumstances last existed that give rise to the
7 alleged violation.

8 (Source: P.A. 96-863, eff. 3-1-10.)

9 (225 ILCS 411/25-70)

10 (Section scheduled to be repealed on January 1, 2021)

11 Sec. 25-70. Receivership. In the event a cemetery
12 authority license is suspended or revoked or where an
13 unlicensed person has conducted activities requiring cemetery
14 authority licensure under this Act, the Department, through the
15 Attorney General, may petition the circuit courts of this State
16 for appointment of a receiver to administer the care funds of
17 such licensee or unlicensed person or to operate the cemetery.

18 (a) The court shall appoint a receiver if the court
19 determines that a receivership is necessary or advisable:

20 (1) to ensure the orderly and proper conduct of a
21 licensee's professional business and affairs during or in
22 the aftermath of the administrative proceeding to revoke or
23 suspend the cemetery authority's license;

24 (2) for the protection of the public's interest and
25 rights in the business, premises, or activities of the

1 person sought to be placed in receivership;

2 (3) upon a showing of actual or constructive
3 abandonment of premises or business licensed or which was
4 not but should have been licensed under this Act;

5 (4) upon a showing of serious and repeated violations
6 of this Act demonstrating an inability or unwillingness of
7 a licensee to comply with the requirements of this Act;

8 (5) to prevent loss, wasting, dissipation, theft, or
9 conversion of assets that should be marshaled and held
10 available for the honoring of obligations under this Act;
11 or

12 (6) upon proof of other grounds that the court deems
13 good and sufficient for instituting receivership action
14 concerning the respondent sought to be placed in
15 receivership.

16 (b) A receivership under this Section may be temporary, or
17 for the winding up and dissolution of the business, as the
18 Department may request and the court determines to be necessary
19 or advisable in the circumstances. Venue of receivership
20 proceedings may be, at the Department's election, in Cook
21 County or the county where the subject of the receivership is
22 located. The appointed receiver shall be the Department or such
23 person as the Department may nominate and the court shall
24 approve.

25 (c) A receiver under this Section will not be held liable
26 for the acts or omissions of a cemetery to which he or she is

1 appointed unless the alleged acts or omissions were the result
2 of willful, wanton, or reckless conduct on the part of the
3 receiver.

4 (d) The Department may adopt rules for the implementation
5 of this Section.

6 (Source: P.A. 96-863, eff. 3-1-10.)

7 (225 ILCS 411/75-50)

8 (Section scheduled to be repealed on January 1, 2021)

9 Sec. 75-50. Burial permits. Notwithstanding any law to the
10 contrary, ~~a cemetery authority shall ensure that every burial~~
11 ~~permit shall contain applicable to that cemetery authority~~
12 ~~contains the decedent's parcel identification number or other~~
13 ~~information as provided by rule regarding the location of the~~
14 ~~interment, entombment, or inurnment of the deceased that would~~
15 ~~enable the Department to determine the precise location of the~~
16 ~~decedent.~~

17 (Source: P.A. 96-863, eff. 3-1-10.)

18 (225 ILCS 411/75-55)

19 (Section scheduled to be repealed on January 1, 2021)

20 Sec. 75-55. Transition.

21 (a) Within 60 days after the effective date of this Act,
22 the Comptroller shall provide the Department copies of records
23 in the Comptroller's possession pertaining to the Cemetery Care
24 Act and the Crematory Regulation Act that are necessary for the

1 Department's immediate responsibilities under this Act. All
2 other records pertaining to the Cemetery Care Act and the
3 Crematory Regulation Act shall be transferred to the Department
4 by March 1, 2012. In the case of records that pertain both to
5 the administration of the Cemetery Care Act or the Crematory
6 Regulation Act and to a function retained by the Comptroller,
7 the Comptroller, in consultation with the Department, shall
8 determine, within 60 days after the repeal of the Cemetery Care
9 Act, whether the records shall be transferred, copied, or left
10 with the Comptroller; until this determination has been made
11 the transfer shall not occur.

12 (b) A person licensed under one of the Acts listed in
13 subsection (a) of this Section or regulated under the Cemetery
14 Association Act shall continue to comply with the provisions of
15 those Acts until such time as the person is licensed under this
16 Act or those Acts are repealed or the amendatory changes made
17 by this amendatory Act of the 96th General Assembly take
18 effect, as the case may be, whichever is earlier.

19 (c) To support the costs that may be associated with
20 implementing and maintaining a licensure and regulatory
21 process for the licensure and regulation of cemetery
22 authorities, cemetery managers, customer service employees,
23 and cemetery workers, all cemetery authorities that do not
24 qualify for ~~not maintaining~~ a full exemption or partial
25 exemption shall pay the following to the Department:

26 (1) by September 1, 2010, a one-time fee of \$20 ~~to the~~

1 ~~Department~~ plus a fee of \$5 per interment, inurnment, or
2 entombment performed between March 1, 2010 and July 31,
3 2010, inclusive; and

4 (2) by July 1 of each year, beginning on July 1, 2012,
5 a fee of \$2 per interment, inurnment, or entombment
6 performed during the preceding calendar year ~~an additional~~
7 ~~charge of \$1 per burial unit per year within the cemetery.~~

8 The Department may establish forms for the collection of
9 the fee established under this subsection (c) and shall deposit
10 such fee into the Cemetery Oversight Licensing and Disciplinary
11 Fund. The Department may begin to collect the aforementioned
12 fee after the effective date of this Act. In addition, the
13 Department may establish rules for the collection process,
14 which may include, but shall not be limited to, dates, forms,
15 enforcement, or other procedures necessary for the effective
16 collection, deposit, and overall process regarding this
17 Section.

18 (d) Any cemetery authority that fails to pay to the
19 Department the required fee or submits the incorrect amount
20 shall be subject to the penalties provided for in Section
21 25-110 of this Act.

22 (e) Except as otherwise specifically provided, all fees,
23 fines, penalties, or other moneys received or collected
24 pursuant to this Act shall be deposited in the Cemetery
25 Oversight Licensing and Disciplinary Fund.

26 (f) All proportionate funds held in the Comptroller's

1 Administrative Fund related to unexpended moneys collected
2 under the Cemetery Care Act and the Crematory Regulation Act
3 shall be transferred to the Cemetery Oversight Licensing and
4 Disciplinary Fund within 60 days after the effective date of
5 the repeal of the Cemetery Care Act.

6 (g) Personnel employed by the Comptroller on February 29,
7 2012, to perform the duties pertaining to the administration of
8 the Cemetery Care Act and the Crematory Regulation Act, are
9 transferred to the Department on March 1, 2012.

10 The rights of State employees, the State, and its agencies
11 under the Comptroller Merit Employment Code and applicable
12 collective bargaining agreements and retirement plans are not
13 affected under this Act, except that all positions transferred
14 to the Department shall be subject to the Personnel Code
15 effective March 1, 2012.

16 All transferred employees who are members of collective
17 bargaining units shall retain their seniority, continuous
18 service, salary, and accrued benefits. During the pendency of
19 the existing collective bargaining agreement, the rights
20 provided for under that agreement shall not be abridged.

21 The Department shall continue to honor during their
22 pendency all bargaining agreements in effect at the time of the
23 transfer and to recognize all collective bargaining
24 representatives for the employees who perform or will perform
25 functions transferred by this Act. For all purposes with
26 respect to the management of the existing agreement and the

1 negotiation and management of any successor agreements, the
2 Department shall be deemed the employer of employees who
3 perform or will perform functions transferred to the Department
4 by this Act.

5 (Source: P.A. 96-863, eff. 3-1-10.)

6 Section 15. The Crematory Regulation Act is amended by
7 changing Section 11 as follows:

8 (410 ILCS 18/11)

9 (Text of Section before amendment by P.A. 96-863)

10 (Section scheduled to be repealed on January 1, 2021)

11 Sec. 11. Grounds for refusal of license or suspension or
12 revocation of license.

13 (a) In this Section, "applicant" means a person who has
14 applied for a license under this Act.

15 (b) The Comptroller may refuse to issue a license under
16 this Act, or may suspend or revoke a license issued under this
17 Act, on any of the following grounds:

18 (1) The applicant or licensee has made any
19 misrepresentation or false statement or concealed any
20 material fact in connection with a license application or
21 licensure under this Act.

22 (2) The applicant or licensee has been engaged in
23 business practices that work a fraud.

24 (3) The applicant or licensee has refused to give

1 information required under this Act to be disclosed to the
2 Comptroller.

3 (4) The applicant or licensee has conducted or is about
4 to conduct cremation business in a fraudulent manner.

5 (5) As to any individual listed in the license
6 application as required under Section 10, that individual
7 has conducted or is about to conduct any cremation business
8 on behalf of the applicant in a fraudulent manner or has
9 been convicted of any felony or misdemeanor an essential
10 element of which is fraud.

11 (6) The applicant or licensee has failed to make the
12 annual report required by this Act or to comply with a
13 final order, decision, or finding of the Comptroller made
14 under this Act.

15 (7) The applicant or licensee, including any member,
16 officer, or director of the applicant or licensee if the
17 applicant or licensee is a firm, partnership, association,
18 or corporation and including any shareholder holding more
19 than 25% of the corporate stock of the applicant or
20 licensee, has violated any provision of this Act or any
21 regulation or order made by the Comptroller under this Act.

22 (8) The Comptroller finds any fact or condition
23 existing that, if it had existed at the time of the
24 original application for a license under this Act, would
25 have warranted the Comptroller in refusing the issuance of
26 the license.

1 (Source: P.A. 92-675, eff. 7-1-03.)

2 (Text of Section after amendment by P.A. 96-863)

3 (Section scheduled to be repealed on January 1, 2021)

4 Sec. 11. Grounds for denial or discipline.

5 (a) In this Section, "applicant" means a person who has
6 applied for a license under this Act including those persons
7 whose names are listed on a license application in Section 10
8 of this Act.

9 (b) The Department may refuse to issue a license, place on
10 probation, reprimand, or take other disciplinary action that
11 the Department may deem appropriate, including imposing fines
12 not to exceed \$10,000 for each violation, with regard to any
13 license under this Act, or may suspend or revoke a license
14 issued under this Act, on any of the following grounds:

15 (1) The applicant or licensee has made any
16 misrepresentation or false statement or concealed any
17 material fact in furnishing information to the Department.

18 (2) The applicant or licensee has been engaged in
19 business practices that work a fraud.

20 (3) The applicant or licensee has refused to give
21 information required under this Act to be disclosed to the
22 Department or failing, within 30 days, to provide
23 information in response to a written request made by the
24 Department.

25 (4) Engaging in dishonorable, unethical, or

1 unprofessional conduct of a character likely to deceive,
2 defraud, or harm the public.

3 (5) As to any individual listed in the license
4 application as required under Section 10, that individual
5 has conducted or is about to conduct any cremation business
6 on behalf of the applicant in a fraudulent manner or has
7 been convicted of any felony or misdemeanor an essential
8 element of which is fraud.

9 (6) The applicant or licensee has failed to make the
10 annual report required by this Act or to comply with a
11 final order, decision, or finding of the Department made
12 under this Act.

13 (7) The applicant or licensee, including any member,
14 officer, or director of the applicant or licensee if the
15 applicant or licensee is a firm, partnership, association,
16 or corporation and including any shareholder holding more
17 than 25% of the corporate stock of the applicant or
18 licensee, has violated any provision of this Act or any
19 regulation or order made by the Department under this Act.

20 (8) The Department finds any fact or condition existing
21 that, if it had existed at the time of the original
22 application for a license under this Act, would have
23 warranted the Department ~~Comptroller~~ in refusing the
24 issuance of the license.

25 (9) Any violation of this Act or of the rules adopted
26 under this Act.

1 (10) Incompetence.

2 (11) Gross malpractice.

3 (12) Discipline by another state, District of
4 Columbia, territory, or foreign nation, if at least one of
5 the grounds for the discipline is the same or substantially
6 equivalent to those set forth in this Section.

7 (13) Directly or indirectly giving to or receiving from
8 any person, firm, corporation, partnership, or association
9 any fee, commission, rebate, or other form of compensation
10 for professional services not actually or personally
11 rendered.

12 (14) A finding by the Department that the licensee,
13 after having its license placed on probationary status, has
14 violated the terms of probation.

15 (15) Willfully making or filing false records or
16 reports, including, but not limited to, false records filed
17 with State agencies or departments.

18 (16) Gross, willful, or continued overcharging for
19 professional services, including filing false statements
20 for collection of fees for which services are not rendered.

21 (17) Practicing under a false or, except as provided by
22 law, an assumed name.

23 (18) Cheating on or attempting to subvert this Act's
24 licensing application process.

25 (Source: P.A. 96-863, eff. 3-1-12.)

1 Section 20. The Cemetery Protection Act is amended by
2 changing Section .01 as follows:

3 (765 ILCS 835/.01) (from Ch. 21, par. 14.01)

4 Sec. .01. For the purposes of this Act, the term:

5 "Cemetery authority" means an individual or legal entity
6 that owns or controls cemetery lands or property as further
7 defined in the Cemetery Oversight Act.

8 "Cemetery manager" means an individual who is engaged in,
9 or holding himself or herself out as engaged in, those
10 activities involved in or incidental to supervising the
11 following: the maintenance, operation, development, or
12 improvement of a cemetery licensed under this Act; the
13 interment of human remains; or the care, preservation, and
14 embellishment of cemetery property. This definition also
15 includes, without limitation, an individual that is an
16 independent contractor or individuals employed or contracted
17 by an independent contractor who is engaged in, or holding
18 himself or herself out as engaged in, those activities involved
19 in or incidental to supervising the following: the maintenance,
20 operation, development, or improvement of a cemetery licensed
21 under this Act; the interment of human remains; or the care,
22 preservation, and embellishment of cemetery property.

23 "Community mausoleum" means a mausoleum owned and operated
24 by a cemetery authority that contains multiple entombment
25 rights sold to the public.

1 (Source: P.A. 96-863, eff. 3-1-10.)

2 Section 95. No acceleration or delay. Where this Act makes
3 changes in a statute that is represented in this Act by text
4 that is not yet or no longer in effect (for example, a Section
5 represented by multiple versions), the use of that text does
6 not accelerate or delay the taking effect of (i) the changes
7 made by this Act or (ii) provisions derived from any other
8 Public Act.

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.".